

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**

UNITED STATES OF AMERICA)	
)	
Plaintiff,)	CIVIL NO. 7:20-CV-130
)	
vs.)	
)	
191.30 ACRES OF LAND, MORE OR LESS,)	
SITUATE IN STARR COUNTY, STATE OF)	
TEXAS; AND SERVANDO LUERA)	
)	
Defendants.)	

COMPLAINT IN CONDEMNATION

1. This is a civil action brought by the United States of America at the request of the Secretary of the Department of Homeland Security, through [the Acquisition Program Manager, Wall Program Management Office, U.S. Border Patrol Program Management Office Directorate, U.S. Border Patrol, U.S. Customs and Border Protection, Department of Homeland Security], for the taking of property under the power of eminent domain through a Declaration of Taking, and for the determination and award of just compensation to the owners and parties in interest.

2. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1358.

3. The interest in property taken herein is under and in accordance with the authority set forth in Schedule “A.”

4. The public purpose for which said interest in property is taken is set forth in Schedule “B.”

5. The legal description and map or plat of land in which certain interests are being acquired by the filing of this Complaint, pursuant to the Declaration of Taking, are set forth in

Schedules “C” and “D.”

6. The interest being acquired in the property described in Schedules “C” and “D” is set forth in Schedule “E.”

7. The amount of just compensation estimated for the property interest being acquired is set forth in Schedule “F.”

8. The names and addresses of known parties having or claiming an interest in said acquired property are set forth in Schedule “G.”

9. Local and state taxing authorities may have or claim an interest in the property by reason of taxes and assessments due and eligible.

WHEREFORE, Plaintiff requests judgment that the interest described in Schedule “E” of the property described in Schedules “C” and “D” be condemned, and that just compensation for the taking of said interest be ascertained and awarded, and for such other relief as may be lawful and proper.

Respectfully submitted,

RYAN K. PATRICK
United States Attorney
Southern District of Texas

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SCHEDULE A

SCHEDULE A

AUTHORITY FOR THE TAKING

The property is taken under and in accordance with 40 U.S.C. §§ 3113 and 3114, which authorize the condemnation of land and the filing of a Declaration of Taking; the Act of Congress approved September 30, 1996, as Public Law 104-208, Division C, Section 102, 110 Stat. 3009-546, 3009-554-55, as amended and codified at 8 U.S.C. § 1103(b) & note; and the Act of Congress approved February 15, 2019, as Public Law 116-6, div. A, tit. II, Section 230, which appropriated the funds that shall be used for the taking.

SCHEDULE B

SCHEDULE B

PUBLIC PURPOSE

The public purpose for which said property is taken is to conduct surveying, testing, and other investigatory work needed to plan the proposed construction of roads, fencing, vehicle barriers, security lighting, cameras, sensors, and related structures designed to help secure the United States/Mexico border within the State of Texas.

SCHEDULE C

SCHEDULE C

LEGAL DESCRIPTION

STARR County, Texas

Tract: RGV-RGC-1013
Owner: Servando Luera
Acres: 191.30

A tract of land containing 197.20 acre gross and a net acreage of 191.30 acres more or less including all surface and subsurface minerals, out of and forming a part or portion of Tract No. 10 out of Porcion No. 58, Mier, 2nd Shares Nos. 1, 3, 4, 5, 6, 8, 9, 11, 12, 13 and 14 out of Porcion No. 59 Ancient Jurisdiction of Mier, now Starr County, Texas as Trimble Map and being more particularly described by metes and bounds as follows:

BEGINNING at a set iron pin on or about the dividing fence line between Shares Nos. 14 and 7-B, of Porcion 59, Mier 2nd being on the South R.O.W. line of a 20.0 feet Road Easement, S. 77° 12' 14" E., 5260.66 feet, from the North corner of Tract No. 8 of said Porcion No. 58, Mier, for the East corner hereof;

THENCE, following meandering fence line as follows:

S. 55° 38' 21" W., 629.89 feet;
S. 55° 30' 27" W., 997.65 feet;
S. 55° 42' 46" W., 608.23 feet;
N. 34° 28' 28" W., 99.13 feet;
S. 55° 40' 14" W., 476.76 feet;
S. 55° 37' 29" W., 1554.29 feet to a set iron pin on the North High Bank of the Rio Grande River, for the South corner hereof;

THENCE, following the North Bank of the Rio Grande River, N. 71° 47' 22" W., 2051.30 feet to a set iron pin, for the West corner hereof;

THENCE, following a meandering fence line to the Northeast as follows:

N. 55° 58' 15" E., 1273.61 feet;
N. 34° 02' 01" W., 70.95 feet;
N. 53° 31' 00" E., 369.03 feet;
S. 44° 58' 07" E., 139.59 feet;
N. 55° 28' 24" E., 1814.26 feet;
N. 18° 54' 57" E., 808.79 feet;
S. 60° 03' 14" E., 52.01 feet;
N. 71° 45' 17" E., 405.54 feet;
S. 34° 20' 11" E., 35.72 feet;
N. 55° 32' 07" E., 971.43 feet on or about the dividing fence line between Porciones Nos. 58 and 59 to a set iron pin for the North corner hereof;

SCHEDULE C, cont'd

THENCE, S. 34° 20' 25" E., 1961.98 feet along the dividing line between Parcel 6 and this Parcel to the PLACE OF BEGINNING and containing within these metes and bounds 197.20 gross acres of land more or less.

SAVE AND EXCEPT:

PART I

A tract of land containing 5.05 acres more or less out of and forming a part or portion of Share No. 1 of Porcion No. 59, Ancient Jurisdiction of Mier, Mexico now Starr County, Texas and more particularly described by metes and bounds, as follows:

BEGINNING at a set iron pin on the East Line of 20.0 foot road in Share No. 1 for the North corner hereof; which point and corner are distance, S. 29° 03' 41" E., 2448.78 feet, from the North corner of Tract No. 8 of said Porcion No. 58, Mier Jurisdiction.

THENCE, following the East R.O.W. Easement of a 20.0 foot road, S. 34° 17' 43" E., 400.0 feet to a set 5/8" iron pin, for the East corner hereof;

THENCE, S. 55° 42' 17" W., 550.0 feet to a set 5/8" iron pin, for the South corner hereof;

THENCE, N. 34° 17' 43" W., 400.0 feet to a set 5/8" iron pin, for the West corner hereof;

THENCE, N. 55° 42' 17" E., 550.0 feet to the PLACE OF BEGINNING and containing within these metes and bounds 5.05 acres of land more or less.

PART II

A tract of land containing 0.85 of an acre more or less out of and forming a part or portion of Share Nos. 1, 3 and 5 of Porcion No. 59, Ancient Jurisdiction of Mier, Mexico now Starr County, Texas and more particularly described by metes and bounds as follows:

BEGINNING at a found 5/8" iron pin at corner of fence in Share No. 5 of Porcion No. 59, Mier Jurisdiction, for the North corner hereof, which pin and corner are distant, S. 32° 26' 45" E., 2549.78 feet from a found 5/8" iron pin being the recognized North corner of Tract No. 8 of Porcion No. 58, Mier Jurisdiction, as per Trimble Map.

THENCE, following fence, S. 54° 26' 20" E., 235.97 feet to a found 5/8" iron pin at corner of fence, for the East corner hereof;

SCHEDULE C, cont'd

THENCE, following fence, S. 48° 33' 39" W., 203.94 feet to a found 5/8" iron pin on the East R.O.W. Easement of Road, for the South corner hereof;

THENCE, with said East R.O.W. Easement of Road, N. 34° 17' 43" W., 225.00 feet to a set 5/8" iron pin at corner of fence, for the West corner hereof;

THENCE, following fence, N. 45° 26' 57" E., 123.05 feet to the PLACE OF BEGINNING and containing within these metes and bounds 0.85 of an acre of land more or less.

FOR A NET CONVEYANCE OF 191.30 ACRES MORE OR LESS.

SCHEDULE D

SCHEDULE E

SCHEDULE E

ESTATE TAKEN

Starr County, Texas

Tract: RGV-RGC-1013
Owner: Servando Luera
Acres: 191.30

The estate taken is a temporary, assignable easement beginning on the date possession is granted to the United States and ending 12 months later, consisting of the right of the United States, its agents, contractors, and assigns to enter in, on, over and across the land described in Schedule C to survey, make borings, and conduct other investigatory work for the purposes described in Schedule B and to access adjacent lands; including the right to trim or remove any vegetative or structural obstacles that interfere with said work; reserving to the landowners, their successors and assigns all right, title, and privileges as may be used and enjoyed without interfering with or abridging the rights hereby acquired; subject to minerals and rights appurtenant thereto, and to existing easements for public roads and highways, public utilities, railroads and pipelines.

SCHEDULE F

SCHEDULE F

ESTIMATE OF JUST COMPENSATION

The sum estimated as just compensation for the land being taken is ONE HUNDRED DOLLARS AND NO/100 (\$100.00), to be deposited herewith in the Registry of the Court for the use and benefit of the persons entitled thereto; and, an additional sum determined at the conclusion of the temporary estate described in Schedule E to constitute actual damages, if any.

SCHEDULE G

SCHEDULE G**INTERESTED PARTIES**

The following table identifies all persons who have or claim an interest in the property condemned and whose names are now known, indicating the nature of each person's property interest(s) as indicated by references in the public records and any other information available to the United States. See Fed. R. Civ. P. 71.1(c).

Interested Party	Reference
Servando Luera [REDACTED] Falcon Heights, Texas [REDACTED]	Deed of Gift, Document #189307, Volume 0771, Page 781, Filed for Record January 22, 1997, Official Records of Starr County

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE